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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,889	05/09/2001	Fusao Tachibana	01-24 FJA	4293

7590 12/24/2002  
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New York, NY 10017

EXAMINER

SMITH, JULIE KNECHT

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 12/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/851,889

Applicant(s)

TACHIBANA, FUSAO

Examiner

Julie K Smith

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. (US Patent No. 5,699,872) in view of Ida et al. (US Patent No. 4,978,864). Miyakawa et al. discloses an engine starter (see fig. 16) comprising a recoil device (67, 86), a ring gear (83), operatively rotated with said recoil device, a recoil cover (87) for accommodating said recoil device and said ring gear, and a starter device having pinions engaged with said ring gear. Miyakawa et al. is silent as to a drain mechanism.

However, Ida et al. teaches a draining mechanism (see fig. 5) provided on an engine cover for allowing a liquid entering from said recoil cover to be discharged by a one-touch operation.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the apparatus of Miyakawa et al. with the teachings of Ida et al. to provide a drain mechanism on a recoil cover so as to provide means for draining fluid out of the recoil cover.

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3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida et al. as applied to claim 1 above, and further in view of Gotoh (US Patent No. 4,491,754). Miyakawa et al. discloses an engine starter and Ida et al. discloses a draining mechanism including a plug (18), as claimed above, but does not disclose a drain mechanism including a transparent pipe member. Gotoh teaches a drain mechanism including a pipe member attached to an engine cover.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Gotoh with the reference combination set forth above to provide a transparent pipe member so as to allow the contents of the pipe to be viewed from outside.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida et al. as applied to claim 1 above, and further in view of Haynes (US Patent No. 4,757,710). Miyakawa et al. discloses an engine starter as claimed but does not disclose a window for viewing a liquid. However, Haynes teaches the use of a window on an engine cover for viewing liquid levels.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide the starter cover of Miyakawa et al. with a window for allowing the liquid to be visible from the outside so that the drain can be emptied as needed.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida and Gotoh as applied to claim 2 above, and further in view of Haynes. Miyakawa et

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al. discloses an engine starter as claimed but does not disclose a window for viewing a liquid.

However, Haynes teaches the use of a window on an engine cover for viewing liquid levels.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide the reference combination set forth above with a window for allowing the liquid to be visible from the outside so that the drain can be emptied as needed.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida et al. as applied to claim 1 above, and further in view of Ide (US Patent No. 4,038,051). Miyakawa et al. discloses an engine starter as claimed above but does not disclose means of forcing the liquid out of the recoil cover.

However, Ide teaches a compressed air injection hole (36, fig. 4) for introducing compressed air to forcibly discharge the liquid inside a cover. Although Ide does not disclose a lid for covering the injection hole, he does disclose a lid (53) for the drain valve. Moreover, it is well known in the art to provide an opening with a lid so as to protect it from foreign matter.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide a compressed air injection hole for introducing compressed air to forcibly discharge the liquid inside a cover so as to remove any contaminants. It would have further been obvious to provide a lid member for closing said compressed air injection hole so as to prevent foreign matter from entering the hole.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida et al and Gotoh as applied to claim 2 above, and further in view of Ide. Miyakawa et

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al. discloses an engine starter as claimed above but does not disclose means of forcing the liquid out of the recoil cover.

However, Ide teaches a compressed air injection hole (36, fig. 4) for introducing compressed air to forcibly discharge the liquid inside a cover. Although Ide does not disclose a lid for covering the injection hole, he does disclose a lid (53) for the drain valve. Moreover, it is well known in the art to provide an opening with a lid so as to protect it from foreign matter.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide a compressed air injection hole for introducing compressed air to forcibly discharge the liquid inside a cover so as to remove any contaminants. It would have further been obvious to provide a lid member for closing said compressed air injection hole so as to prevent foreign matter from entering the hole.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida et al and Haynes as applied to claim 3 above, and further in view of Ide. Miyakawa et al. discloses an engine starter as claimed above but does not disclose means of forcing the liquid out of the recoil cover.

However, Ide teaches a compressed air injection hole (36, fig. 4) for introducing compressed air to forcibly discharge the liquid inside a cover. Although Ide does not disclose a lid for covering the injection hole, he does disclose a lid (53) for the drain valve. Moreover, it is well known in the art to provide an opening with a lid so as to protect it from foreign matter.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide a compressed air injection hole for introducing compressed air to forcibly discharge the liquid inside a cover so as to remove any contaminants. It would have further been obvious to provide a lid member for closing said compressed air injection hole so as to prevent foreign matter from entering the hole.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. in view of Ida et al, Haynes and Gotoh as applied to claim 4 above, and further in view of Ide. Miyakawa et al. discloses an engine starter as claimed above but does not disclose means of forcing the liquid out of the recoil cover.

However, Ide teaches a compressed air injection hole (36, fig. 4) for introducing compressed air to forcibly discharge the liquid inside a cover. Although Ide does not disclose a lid for covering the injection hole, he does disclose a lid (53) for the drain valve. Moreover, it is well known in the art to provide an opening with a lid so as to protect it from foreign matter.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide a compressed air injection hole for introducing compressed air to forcibly discharge the liquid inside a cover so as to remove any contaminants. It would have further been obvious to provide a lid member for closing said compressed air injection hole so as to prevent foreign matter from entering the hole.

### ***Response to Arguments***

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10. Applicant's arguments filed October 9, 2002 have been fully considered but they are not persuasive.

With respect to the argument that the ring gear of Miyakawa et al. is not operatively rotated with the recoil device, as disclosed in column 6, lines 55-67 of Miyakawa et al., it is disclosed that the ring gear (83) is rotatably supported on a crank shaft (79), said crank shaft can be cranked by pulling the knob (67) of the recoil starter (86). Therefore, the ring gear is rotated with the recoil starter via said crankshaft.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Ida et al. reference teaches a drain mechanism for an engine starter. The drain is sealed with a plug (18) that can be removed by one-touch operation by pulling the plug out of the hole.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO



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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,632,659 to Martin et al.

US Patent No. 4,848,288 to Murase et al.

US Patent No. 6,035,732 to Ogishima et al.

US Patent No. 4,924,959 to Handa et al.

US Patent No. 5,052,234 to Sugiyama

US Patent No. 4,978,864 to Ida et al.

US Patent No. 5,101,114 to Isozumi et al.

US Patent No. 4,424,989 to Spencer et al.

US Patent No. 4,887,476 to Yokoyama

US Patent No. 5,159,845 to Wada et al.

US Patent No. 4,480,605 to Bloemers

US Patent No. 6,083,381 to Connelly et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone numbers for the

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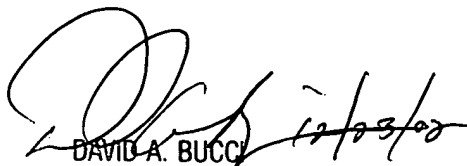
organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JKS

JKS

December 19, 2002

  
DAVID A. BUCCY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600